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May 26, 2021

VIA CM/ECF

The Honorable Wilhemina M. Wright
United States District Court
316 N. Robert Street
St. Paul, MN 55101

Re: Jared Goyette v City of Minneapolis, et al.,
United States District Court File No. 20-cv-1302 (WMW/DTS)

Dear Judge Wright:

Pursuant to Federal Rule of Civil Procedure 65 and your Practice Pointers, I write to seek permission to introduce witness testimony at the hearing on June 16 – either in person or via Zoom.

Live witness testimony will be helpful in this matter because the factual issues are complex and voluminous. Plaintiffs submitted five declarations with their motion for a preliminary injunction, and State Defendants submitted several declarations with their responsive brief. While we have confidence the Court will review every declaration and exhibit, we also know that testimony is more compelling, and easier to understand, when it comes from a live witness. For example, State Defendants want the Court to hear directly from the Minnesota State Patrol/Department of Public Safety leaders who were supervising the State Patrol's participation in Operation Safety Net during the unrest in Brooklyn Center last month. Those individuals will be able to describe for the Court how Operation Safety Net is structured, which law enforcement agents are shown in the various photos shared by Plaintiffs (if identifiable at all), the efforts of State Patrol to implement the TRO, and the challenges State Defendants have encountered in that implementation.

It is not unusual to present witnesses during a preliminary injunction hearing. *See, e.g., Kroupa v. Nielsen*, 731 F.3d 813, 816 (8th Cir. 2013) (summarizing the “lengthy testimony” from the preliminary injunction hearing); *Medicine Shoppe Int’l v. S.B.D. Pill Dr., Inc.*, 336 F.3d 801, 804 (8th Cir. 2003) (summarizing testimony from the preliminary injunction hearing); *FTC v. Tenet Health Care Corp.*, 186 F.3d 1045, 1048 (8th Cir. 1999) (noting five-day hearing on preliminary injunction); *U.S. Commodity Futures Trading Com’n v. Cook*, No. 09 SC 332 NJD/JJK, 2009 WL 4823369, at *1 (D. Minn. Dec. 8, 2009) (noting the court “considered witness testimony at the preliminary injunction hearing”); *FTC v. Kruchten*, No. 01-523-ADM/RLE, 2001 WL 34134694, at *12 (D. Minn. May 10, 2001) (indicating how parties who wish to present testimony at the preliminary injunction hearing should give notice).

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In this matter, State Defendants deeply appreciate the Court's decision to allow the briefing of the preliminary injunction to proceed on an unhurried timeline. State Defendants have made the most of their time to put together the relevant factual record and legal analysis. In assembling that record, however, it also became clear to State Defendants that it would be best for the Court to hear from the State Defendants themselves, and for Plaintiffs to have the opportunity to share their stories live as well (if they so desire). In that way, the witnesses will be able to share a more cogent story than is allowed by the structure of a legal brief and word count limits. The Court could also ask any follow-up questions it may have of the witnesses.

Therefore, State Defendants respectfully request that the Court allow the parties to put on live testimony during the June 16 hearing on the preliminary injunction. We propose that the parties each be given up to 150 minutes of time to present testimony, with a deadline of June 11 to identify each witness and the general topics of testimony, as well as any documents that will be introduced.

Sincerely,

s/ Kathryn Iverson Landrum

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cc: Counsel of record, via CM/ECF

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